



WEB COPY



WP No. 10978 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 10978 of 2024

AND

WMP NO. 12067 OF 2024

1. N.Mayilvaganam (Rtd SSI)
S/o. Nanjappan, No. 17/41 Perinba
Nagar, Appanayakkanpalayam,
Thudiyalur, Coimbatore 17

Petitioner(s)

Vs

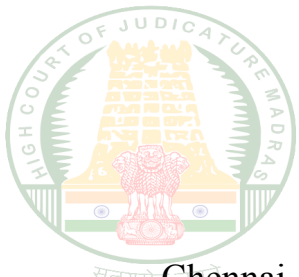
1. The Director General Of Police
Kamarajar Salai, Mylapore Chennai 04

2.The Commissioner Of Police
Coimbatore City, Coimbatore

3.The Superintendent Of Police
Special Branch CID, Chennai 04

4.The Deputy Superintendent Of Police
Special Branch CID, Chennai 04

5.The Accountant General/
Branch Officer
(Accounts And Entitlements),
No. 361 Anna Salai, Teynampet



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Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the 5th respondent in No. AG(A and E) PEN PO6/ 10625998/ 1/ R0625998 dated 19.04.2023 and the consequential impugned order issued by the 3rd respondent in C.No.E1/ SB/ 257/ 7792/ 2022 dated 27.04.2023 and the consequential impugned order issued by the 4th respondent in Na.Ka.No. P2/ Tha.Pi/ 13838/ 2023 Ma.Aa. No. 454/ Tha.Pi/ 2023 dated 05.05.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. Y3/ 27907/ 2023 dated 03.07.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. Y3/33270/2023 dated 11.08.2023 and finally the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/ 057386/ 2023 dated 24.01.2024 and quash the same as illegal and consequently direct the respondents to refund/ reimburse the recovery amount a sum of Rs. 2,32,941/- (Rupees two lakh thirty two thousand Nine Hundred and Forty one only) to the petitioner's account within the time frame that may be fixed by this Honble Court.

For Petitioner(s): M/s. A.Rajaram

For Respondent(s): Mr.R.U.Dinesh Raj Kumar

A.G.P., For R1 To R4

M/s. G.Vardini Karthik For R5

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order issued by the 5th respondent in No. AG(A and E) PEN PO6/ 10625998/ 1/ R0625998 dated 19.04.2023 and the consequential impugned



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order issued by the 3rd respondent in C.No.E1/ SB/ 257/ 7792/ 2022 dated 27.04.2023 and the consequential impugned order issued by the 4th respondent in Na.Ka.No. P2/ Tha.Pi/ 13838/ 2023 Ma.Aa. No. 454/ Tha.Pi/ 2023 dated 05.05.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. Y3/ 27907/ 2023 dated 03.07.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. Y3/33270/2023 dated 11.08.2023 and finally the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/ 057386/ 2023 dated 24.01.2024 and quash the same as illegal and consequently direct the respondents to refund/ reimburse the recovery amount a sum of Rs. 2,32,941/- (Rupees two lakh thirty two thousand Nine Hundred and Forty one only) to the petitioner's account within the time frame that may be fixed by this Honble Court.

2. Heard Mr.A.Rajaram, learned counsel for the petitioner, Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader appearing for the respondents 1 to 4 and Ms.G.Vardhini Karthik, learned counsel for the 5th respondent.

3. The learned counsel for the petitioner would submit that the petitioner retired from service during 2022. After the retirement on 05.05.2023, the impugned recovery order passed directing to deduct a sum of Rs.2,32,941/- from the Gratuity amount. The learned counsel would submit that the alleged



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excess amount beyond the entitlement of the petitioner was ordered to be recovered since 1999 onwards. If such recovery is permitted, it would cause great hardship against the petitioner and in violation of the *White Washer's case* [*State of Punjab and Ors Vs. Rafiq Masih (White Washer) etc.*, reported in *AIR 2015 SC 696*].

4. Per contra The learned Additional Government Pleader would submit that the *White Washer's case* [cited supra] was subsequently, distinguished by the learned Single Judge in WP.No.2863 of 2023 [*A.Jeyamani Vs. The State of Tamil Nadu and 3 others*] in similar set of facts. Apart from that, he has also relied upon the G.O.Ms.No.286 dated 28.082018. It is the further submission of the learned Additional Government Pleader that whenever the excess payment was fixed, the employee has to give an undertaking and therefore, the Government is competent to recover the same.

5. I have given my anxious consideration to either side submissions.

6. Though the learned Additional Government Pleader would vehemently contend that the recovery order is to be sustained, it is an admitted fact that the excess pay was not paid upon any of the misrepresentation of the petitioner or any false statement. Even the respondent came to know about the wrong fixation of pay only after the auditing department has raised an objection. Though the learned counsel relied upon the learned Single Judge's judgment in



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Jeyamani's case [cited supra], that is the case where the delinquent received the excess payment knowing fully well that he is receiving such an amount excess to his entitlement. But, in the case in hand, no such stand taken by the respondent. More pertinently, the impugned recovery order was issued subsequent to the retirement. Apart from that, the alleged excess payment was made since 1999 almost more than 25 years. Therefore, after period of 25 years, if any recovery order passed against the petitioner, it would definitely infringe upon his fundamental right to life and apart from that, it would become very harsh. Therefore, as rightly contended by the learned counsel for the petitioner, the facts involved in the present case squarely comes within the ambit of the *White washer's* case. Hence, this Court finds merit in this writ petition.

7. In the result, this writ petition is allowed and the impugned order to the extent of recovery is hereby set aside. However, this Court makes it clear that the re-fixation made by the respondent is confirmed. No costs. Consequently, connected WMP is also closed.

23-06-2025

(1/2)

kmi

Index: Yes/No

Speaking order

Internet: Yes

Neutral Citation: Yes/No



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C.KUMARAPPAN J.

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